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BEFORE STATE CHIEF INFORMATION COMMISSIONER  
MAHARASHTRA STATE INFORMATION COMMISSION  
13<sup>TH</sup> FLOOR, NEW ADMINISTRATIVE BUILDING,  
MADAM CAMA ROAD, MUMBAI

1281  
20/11/11

Complaint under Section 18 read with Section 20 and Section 6 of the  
Right to Information Act, 2005

In the matter of:

Mehmood M. Abdi

... *Complainant /Applicant*

*Versus*

M. J. Sapkal, Public Information Officer,  
Assistant Commissioner of Police Mumbai ... *Respondent*

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To

State Chief Information Commissioner  
 Maharashtra State Information Commission  
 13th floor, New Administrative Building,  
 Madam Cama Road,  
 Mumbai – 400 032.

Sub: Complaint under Section 18 read with Section 20 and Section 6 of the  
 Right to Information Act, 2005

In the matter of:

Shri Mehmood M. Abdi  
 A – 901, Meera towers,  
 Opposite Mega mall,  
 Oshiwara Andheri (west)  
 Mumbai – 400053.

**... Complainant**

Versus

1. M. J. Sapkal  
 Public Information Officer,  
 Assistant Commissioner of Police Mumbai,  
 Police Commissioner Office Compound,  
 D. N. Road, Mumbai 400001.
2. The Appellate Authority  
 Deputy Commissioner of Police (Prohibition)  
 Shivaji Market, Office of the Police  
 Commissioner, Mumbai – 400 001

**... Respondent**

Respected Sir,

1. The applicant is constrained to file the instant complaint under Section 18 read with Section 20 and Section 6 of the Right to Information Act, 2005 inter alia for the reason that despite the appellate authority's Order no. OW 248/11, and the Appellate Authority order dated 19.5.2011, the complainant has not been provided with the information as sought for by him. The Appellate Authority after allowing his appeal by order dated 19.5.2011 has reviewed his

order and recalled the same by letter dated 8.6.2011. (The Appellant is also filing an independent appeal against the order dated 19.5.2011 and the letter dated 8.6.2011).

2. That the facts giving rise to the instant complaint are briefly stated as hereunder:-
3. By his application dated 3.12.2010 the Complainant had sought for the following information from the public information officer;
  - i. Whether the police department has sent any communication to various government agencies including Income tax, Enforcement Directorate and Department of Revenue Intelligence regarding the threat perception to Mr. Lalit Kumar Modi;
  - ii. Inspection of entire file (s) / documents relating to the communications sent by the Police Department to various Government Department (viz. Income Tax, Enforcement Directorate and Department of revenue Intelligence) and take copies thereof.

A copy of the application dated 3.12.2010 is annexed herewith and marked as Annexure-P/1.

4. By his order dated 13.12.2010 the Public Information Officer refused to supply the aforesaid information on the ground that disclosure of such information is exempted under Section 8(1) (g) of the RTI Act and the disclosure of such information would endanger the life and security of any person and identify the source of information or assistance given in confidence for law enforcement or security purposes. A copy of the order dated 13.12.2010 is annexed herewith and marked as Annexure-P/2.
5. Aggrieved by the aforesaid order dated 13.12.2010 the Complainant preferred an appeal and the appellate authority after hearing the parties by its order OW No. 248/ 11 categorically held that the disclosure of information as sought for by the Complainant by his letter dated 3.12.2010 is not exempted from disclosure under Section 8 (1) (g) of the RTI Act, disclosure of such information would not endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes. A copy of appeal filed by the complainant

is annexed herewith and marked as Annexure-P/3. A copy of Order bearing OW No.248/11 passed by appellate authority is annexed herewith and marked as Annexure-P/4.

6. Pursuant to the aforesaid appellate order OW No. 248/ 11 the Complainant was provided with incomplete information i.e. along with the forwarding letter dated 9.2.1011, the Complainant was provided with the copy of letter dated 16.9.2010 issued by Shri Deven Bharati, Additional Commissioner of Crime, Mumbai to Shri Samir Bajaj, Deputy Director, Directorate of Enforcement, Mumbai, and the letter dated 22.9.2010 issued by Shri Deven Bharati, Additional Commissioner of Crime, Mumbai to Shri N.P. Bhagat, Director of Income Tax (Intelligence), New Delhi; Copies of forwarding letter dated 9.2.2011, letter dated 16.9.2010 and the letter dated 22.9.2010 are annexed herewith and marked as Annexure-P/5, P/6 and P/7 respectively.
7. That as the information supplied the Public Information Officer was incomplete, therefore the Complainant wrote a letter dated 24.2.2011 whereby the Complainant requested inter alia as under:-

"6. That in pursuance of the Appellate order I wish to present myself in your office to inspect the entire files / documents relating to the communications sent by the police department to various government departments (viz. Income Tax, Enforcement Directorate and Department of Revenue Intelligence) and take copies thereof. Therefore, I request you to kindly inform me a date and time of your convenience so that I can present myself in your office to inspect the entire files / documents relating to the communications sent by the police department to various government departments (viz. Income Tax, Enforcement Directorate and Department of Revenue Intelligence) and take copies thereof."

A copy of the letter dated 24.2.2011 is annexed herewith and marked as Annexure-P/8.

8. Despite such request further reminder and visits the Complainant was not provided with the complete information as sought for by him by his application dated 3.12.2010.

9. That by a separate application dated 24.2.2011 under the Right to Information Act, 2005 the complainant had also sought for the following information:-

- A. Is it correct that any of the Central Agencies had provided inputs to the Bombay Police with regard to the threat to the life of Shri Lalit Kumar Modi from gangsters?
- B. If the answer to the above Question A is yes, a copy or the relevant extracts of such inputs be provided to the applicant and also name of such central agencies be disclosed to the applicant.
- C. Is it correct that the Director of Income Tax (Intelligence), New Delhi had sought information from Bombay Police with regard to the threat perception to Shri Lalit Kumar Modi?
- D. If the answer to the above query no. C is yes, a copy of the letter issued by Director, Income Tax (Intelligence) seeking such information be supplied to the Applicant.
- E. Is it correct that Deputy Director, Directorate of Enforcement, Mumbai had sought information from the Bombay Police with regard to the threat perception to Shri Lalit Kumar Modi?
- F. If answer to the above question (E) is yes, a copy of letter issued by Directorate of Enforcement seeking such information be supplied to the Applicant.
- G. The copies of all communications received or issued by Bombay Police with regard to the threat perception to Shri Lalit Kumar Modi be supplied to the Applicant.

A copy of application dated 24.2.2011 is annexed herewith and marked as **Annexure-P/9**.

10. That despite reminders and requests the Public Information Officer neither allowed permitted the complainant to inspect the files in terms of the appellate Order no. 248/ 11, till date the letter dated 24.2.2011 issued in pursuance of the appellate order No. 248/ 11 has not been responded to nor did he furnish the information as sought for by the complainant by his separate application dated 24.2.2011.

11. In such circumstances the complainant was constrained to visit the office of the Public Information Officer, the letters / requests that the complainant wanted to hand over was refused to be received by the office of the Public Information Officer however the complainant was shown a copy of the order dated 7.3.2011 and was given a copy of the order dated 7.3.2011 wherein it was recorded that the information as sought for by the complainant by his application dated 24.2.2011 is refused to be provided on grounds of Section 8 (1) (g) of the Right to Information Act, 2005.

12. In view of the afore narrated facts and circumstances, the grievance of the complainant for the purposes of the instant complaint is twofold:-

i. The first grievance of the complainant is that despite the appellate order No. 248/ 11 and 19.5.2011 the complainant has not been supplied with the entire information as sought for by him and he has not been allowed to inspect the files and take copies.

b. By his application dated 3.12.2010 the complainant had made two requests:

i. Whether the police department has sent any communication to various government agencies including Income tax, Enforcement Directorate and Department of Revenue Intelligence regarding the threat perception to Mr. Lalit Kumar Modi;

ii. Inspection of entire file (s) / documents relating to the communications sent by the Police Department to various Government Department (viz. Income Tax, Enforcement Directorate and Department of revenue Intelligence) and take copies thereof.

c. That the aforesaid request was rejected vide order dated 13.12.2010 passed by the Public Information Officer. However, the appellate authority by its order no. 248/ 11 allowed the appeal of the complainant. In view of such appellate order the complainant was entitled to know if the police department has sent any communication to various government agencies including the Income Tax Department

and Directorate of Revenue Intelligence regarding the threat perception to Mr. Lalit Kumar Modi. Secondly, the complainant was entitled to inspect the entire file/ documents relating to the communications sent by the police department to various government departments including income tax department, enforcement directorate and directorate of revenue intelligence and take copies of the same.

- d. The Public information Office instead of complying with the aforesaid order of the appellate authority in its entirety by its letter dated 9.2.2011 forwarded the letters dated 22.9.2010 and 16.9.2010 issued by Shri Deven Bharati, Additional Commissioner of Police, Crime Mumbai to shri N.P. Bhagat, Director of Income Tax Intelligence and to Shri Samir Bajaj, Deputy director, Directorate of Enforcement respectively.
  - e. That as the appellate order no. 248/ 11 was not complied with in its entirety therefore the applicant addressed the letter dated 24.2.2011 seeking inspection of the relevant files and the same has not been responded to till date.
  - f. That thereafter the complainant has also filed a complaint before this Hon'ble Commission which is pending adjudication. A copy of the complaint is annexed herewith and marked as Annexure – P/10.
- ii. The second grievance of the complainant is that by application dated 24.2.2011, the appellant had sought for the following information
- A. Is it correct that any of the Central Agencies had provided inputs to the Bombay Police with regard to the threat to the life of Shri Lalit Kumar Modi from gangsters?
  - B. If the answer to the above Question A is yes, a copy or the relevant extracts of such inputs be provided to the applicant and also name of such central agencies be disclosed to the applicant.
  - C. Is it correct that the Director of Income Tax (Intelligence), New Delhi had sought information from Bombay Police with regard to the threat perception to Shri Lalit Kumar Modi?



- D. If the answer to the above query no. C is yes, a copy of the letter issued by Director, Income Tax (Intelligence) seeking such information be supplied to the Applicant.
- E. Is it correct that Deputy Director, Directorate of Enforcement, Mumbai had sought information from the Bombay Police with regard to the threat perception to Shri Lalit Kumar Modi?
- F. If answer to the above question (E) is yes, a copy of letter issued by Directorate of Enforcement seeking such information be supplied to the Applicant.
- G. The copies of all communications received or issued by Bombay Police with regard to the threat perception to Shri Lalit Kumar Modi be supplied to the Applicant.
13. That the information sought for by his application dated 24.2.2011 was not supplied to the complainant within the prescribed period of 30 days, as no information was communicated to the complainant, therefore the complainant visited the office of the public information officer on 4.4.2011 and was shown and handed over the letter dated 7.3.2011 whereby the information sought for by him was refused to be provided. A bare perusal of the letter dated 7.3.2011 would show that incomplete address of the applicant is given therein and therefore there is delay in communicating the decision on application of the complainant.
14. That thereafter the applicant preferred an appeal against the order dated 7.3.2011 before the appellate authority. A copy of the appeal filed by the Appellant is annexed herewith and marked as Annexure - P/11.
15. That by order dated 19.5.2011, the Appellate Authority partly allowed the appeal of the Appellant and directed the information officer to grant inspection and copies of the documents. A copy of the order dated 19.5.2011 is annexed herewith and marked as Annexure - P/12.
16. That despite such directions the complainant was not granted complete effective and meaningful inspection of the file and no copies were granted / provided to the appellant and therefore the complainant addressed the letter

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dated 4.6.2011 to the Appellate Authority, a copy whereof is annexed herewith and marked as Annexure – P/13.

17. That thereafter the appellant has been served with the letter dated 8.6.2011 whereby the Appellate Authority purportedly after discussion with the Deputy Commissioner of Police (Crime) had set aside his own order dated 19.5.2011 and has recorded that he agrees with the order dated 7.3.2011 passed by the Information Officer. A copy of the letter dated 8.6.2011 is annexed herewith and marked as Annexure-P/14.

#### PRAYER

In the circumstances aforesaid, it is respectfully prayed that;

- a. The appropriate action be taken under Section 18 and 20 of the right to Information Act, 2005;
- b. The respondent be directed to provided with the information in terms of information sought for by the complainant in his application dated 3.12.2010 and 24.2.2011; and
- c. Pass any other order (s) as may be deemed fit and proper in the facts and circumstances of the case

  
Signature of the Appellant

Encl: *As above*

13/6/11